



NI Commissioner for Children and Young People's Alternative Report to the UN Committee on the Rights of People with Disabilities

27 February 2017

1.0 Introduction

This report is submitted by the NI Commissioner for Children and Young People (NICCY) for the Committee on the Rights of People with Disabilities (The Committee). It focuses specifically on issues affecting children and young people with disabilities in NI (NI), which for UNCRPD reporting purposes, was included as one of the UK jurisdictions within the UK State Party Initial Report (2011).

NI is a society dealing with the legacy of thirty years of social, political and civil conflict which has had a significant impact on the mental and physical health of many adults, children and young people.¹ Compared with other parts of the UK, NI has higher levels of disability and greater mental health needs.² Research also indicates that children who are disabled or who have disabled parents are more likely to be severely poor or be at risk of persistent poverty than those living in other parts of the UK.³

1.1 The NI Commissioner for Children and Young People (NICCY)

NICCY was established in accordance with 'The Commissioner for Children and Young People (NI) Order' (2003) to safeguard and promote the rights and best interests of children and young people in NI. Under Articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of the Office includes children and young people from birth up to 18 years, or 21 years of age if the young person has a disability or is/has been in the care of social services.

¹ Ferry *et al* 2010, Irvine *et al* 2011, O'Neill *et al* 2015

² Gray and Horgan 2010, Disability Action 2011

³ Monteith *et al* 2009, JRF 2014, Irvine *et al* 2011

In carrying out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner also takes cognisance of other international human rights instruments and standards including the UNCRPD, when considering the rights and needs of children and young people.

NICCY actively promotes the rights and best interests of children and young people with disabilities, by highlighting gaps in policy and practice, promoting the voice of children and young people with disabilities and providing advice to Government to effect improvements in service provision.⁴ In 2010, NICCY called for the development of a comprehensive national strategy for the full and effective inclusion of children with disabilities in society and the provision of a greater range of age-appropriate services for them as they transition to adult life.⁵

2.0 Selected Articles of the UNCRPD

2.1 Article 7: Children with disabilities

There is a lack of data, research and information available about the particular needs and circumstances of children and young people with a disability in NI. A study into public policy and programme delivery in NI relative to the UNCRPD found that the, “...*lack of data on disabled children and young people*” has negative implications for the development of evidence-based policy with respect to disability in NI.⁶

Government estimates suggest that 26,000 children or 6% have a disability in NI. 8% of boys aged 15 and under were found to have a disability, compared with 4% of girls of the same age.⁷

It is estimated that 8,150 young people aged from 0-19 years have a learning disability. Existing definitions used in collating data are based primarily on medicalised understandings of disability.

There is an urgent need to prioritise funding for children with disabilities in NI. The Children

⁴ UK Commissioners 2008, 2011; NICCY 2008, 2010; Byrne and Lundy 2011; Lundy *et al* 2012

⁵ NICCY 2010

⁶ Byrne *et al* 2014

⁷ DHSSPS 2010

with Disabilities Strategic Alliance (CDSA)⁸ reports that funding for some disabled children's services is being reduced or withdrawn and funding cuts are disproportionately adversely impacting on children with disabilities.⁹ Following its examination of the UK Government's compliance with the UNCRC, the UN Committee on the Rights of the Child recommended that the Government,

*"Define budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures and make sure that those budgetary lines are protected even in situations of economic recessions."*¹⁰

The UN Committee on the Rights of the Child's General Comment No.9 (2006) 'The Rights of Children with Disabilities' states children should be a priority in the budgets of State parties,

*"Resources allocated to children with disabilities should be sufficient – and earmarked so that they are not used for other purposes – to cover all needs..."*¹¹

Funding cuts to services for children with disabilities is resulting in delays in accessing services which is compounded by lengthy assessment processes for children with disabilities which may result in little or no intervention. Services are also often linked to diagnosis, so children without a diagnosis can be unable to access services even if they have complex needs.¹²

Recommendations

Funding for children with disabilities should be prioritised within Government and sufficient resources provided to ensure the assessed needs of children with disabilities are met.

There should also be greater accountability and transparency of spending on children and young people with disabilities across Government.

⁸ An alliance of organisations from the children's and the disability sectors in NI

⁹ 'CDSA 2012, p.5

¹⁰ CRC/C/GBR/CO/5 2016, para.13(c)

¹¹ UN Committee 2006, para.20

¹² CDSA 2012, p.26

2.2 Article 8: Awareness-raising

Government in NI has acknowledged that greater efforts need to be made to highlight the diversity of disability and various ways in which disability can impact on people's lives.¹³ CDSA highlights a lack of staff training and awareness amongst service providers on how to provide inclusive services that meet the needs of disabled children.¹⁴ NICCY has advocated for the development of professional training programmes for all staff working with disabled children.¹⁵

Disabled children in NI are very vulnerable to social exclusion, loneliness, negative stereotyping, bullying and harassment.¹⁶

Recommendations

Training should be provided to service providers on how to provide inclusive services which meet the needs of children with disabilities. Professional training programmes should be provided for all staff working with children with disabilities.

Schools should engage young people in discussions about disability and promote positive attitudes, challenging prejudice and discrimination.

The Government should undertake awareness raising campaigns on the rights and special needs of children with disabilities to encourage their inclusion in society and prevent discrimination.¹⁷

2.3 Article 12: Equal recognition before the law

Combined mental capacity and mental health legislation, The Mental Capacity Act (NI) 2016, is expected to become law in 2017. Under 16s are excluded from the scope of the Act due to Government's belief that the test for capacity cannot be applied to children because of their developmental stage. The Mental Health (NI) Order 1986 will remain in place, with some amendments, for under 16s with mental health problems, including children with a learning disability, despite being widely regarded as non-compliant with key human rights, not upholding the principle of personal autonomy and not reflecting

¹³ OFMDFM 2013, A Strategy to improve the lives of people with disabilities 2012 – 2015, Belfast.

¹⁴ CDSA 2012, p.9 - 10

¹⁵ Patient Client Council 2011, UK Children's Commissioners 2011

¹⁶ OFMDFM 2009, Schubotz and Devine 2013, Kelly 2012

¹⁷ CRC 2008, para.53(e)

developments in good practice.¹⁸

Under 16s will be unable to access the protections and safeguards contained in the new Act, including a statutory right to access advocacy services, statutory recognition of the views of carers, legal protection to a person who is providing care or treatment for anyone who lacks capacity and restraint safeguards.

The Act will also provide safeguards when an individual, who is not detained but who lacks the capacity to consent to care in either a hospital or a care home, is deprived of their liberty in their best interests.¹⁹ However, there will be no deprivation of liberty safeguards including scrutiny, monitoring of, or the need to justify, the deprivation of liberty of under 16s.

Under the Mental Capacity Act the test for formal detention in a hospital setting of someone over 16 can only be applied once a lack of capacity is established. Under the Mental Health (NI) Order 1986, there will be no requirement to establish a lack of capacity in under 16s before applying the test for formal detention.

The Mental Capacity Act includes those who lack capacity as a result of ‘personality disorder’ and conditions caused by alcohol misuse within the definition of a mental disorder but this does not apply to under 16s under the Mental Health (NI) Order 1986.

Recommendations

Children and young people under 16 years with mental health problems and / or learning disabilities should have equal access to all necessary safeguards and protections as people over 16.

The deprivation of liberty of children and young people under the age of 16 should be justified and monitored in the same way as for over 16 year olds in line with Article 5 of the European Convention on Human Rights.

2.4 Article 13: Access to Justice

A high proportion of young people who come into contact with the criminal justice system have mental health difficulties or learning difficulties. A 2011 audit of the Juvenile Justice

¹⁸ DHSSPS 2007

¹⁹ *HL v UK* 45508/99 (2004) ECHR 471

Centre found that, of the young people who were detained at that time:

- 77% were substance misusers;
- 40% had self-harmed;
- 30% had ADHD; and
- 43% were already known to CAMH services but had not been attending.²⁰

More recent information from the Department of Justice in 2015 stated that:

“currently 21% of Youth Justice Agency cases in the community are known to CAMHS, although some children may disengage with the service, or refuse to attend entirely. In recent months, the proportion of children in the Juvenile Justice Centre with mental health concerns has fluctuated between 45% and 64%.”²¹

In its 2006 General Comment on the rights of children with disabilities the UN Committee highlighted that Governments are obliged to ensure that children with disabilities who are in conflict with the law will be protected by all the provisions and guarantees contained in the UNCRC.²²

Young males presenting with indicators of dyslexia are disproportionately represented amongst the Juvenile Justice Centre in NI. In 2008 - 2011, 31% of male young offenders had shown some indicators for dyslexia, in comparison to a figure of approximately 10% in the general population.²³

In NI over 60% of young people who come in contact with the youth justice system have communication problems.²⁴ The YJA carried out a pilot in 2012 in Woodlands Juvenile Justice Centre to identify the extent of communication difficulties among young people detained there. This study found that 54% of the 147 young people screened in the pilot had some communication needs, with 17 young people, or 22% requiring the skills of a speech and language therapist to communicate.²⁵

²⁰ NPM (2015)

²¹ Assembly Question 50731/11-16

²² UN Committee on the Rights of the Child (2006), General Comment 9 on The Rights of Children with Disabilities, paras 73 and 74.

²³ AQ 218760/218775/218803/218810

²⁴ Royal College of Speech and Language Therapists 2011

²⁵ Youth Justice Agency (2013), Evidence to the Committee for Justice, 12th September 2013

Recommendations

Children with disabilities in conflict with the law should be dealt, with where possible, without resorting to formal legal procedures.

Children with disabilities should be supported and have their needs met at the earliest possible opportunity.

2.5 Article 16: Freedom from exploitation, violence and abuse

Evidence indicates that disabled children and young people are more likely to be victims of abuse and neglect than their non-disabled peers and that there is likely to be significantly higher rates of abuse for this group of children and young people than is currently being reported.²⁶

Concerns have been raised about the lower than expected prevalence of children with disabilities on the Child Protection Register in NI.²⁷ This may be due a range of factors including issues related to the definition and identification of disability; weaknesses in recording systems and that children may not be placed on the Register if they are removed from the family environment and no longer exposed to ongoing risk.²⁸ Disabled children are over-represented in the population of 'looked after' children, and are more likely to be subject to a Care Order compared to other children in care.²⁹

Within the structure of children's social care in NI, child protection and children with disability teams are not integrated and a recent review highlighted the importance of effective co-working across these teams to ensure a focus on the individual child is maintained. This issue was also raised by the 2014 Inquiry into Child Sexual Exploitation (CSE) which recommended that government must ensure child protection issues are properly addressed in disability and 'looked after' processes.³⁰

In considering how safeguarding arrangements work in practice, recent research has highlighted a number of concerns including: the importance of staff having access to

²⁶ Jones *et al* 2012, Stalker 2013

²⁷ SBNI 2013, CDSA 2014

²⁸ Kelly and Dowling 2015

²⁹ Kelly and Dowling 2013

³⁰ Marshall 2014

specialist training and support; ensuring equity of services for children with disabilities across NI, and ensuring that provision such as respite and short breaks are made available. The particular obligation to make sure that children with little or no verbal communication are properly supported was also highlighted.³¹

Protecting children with disabilities from violence and abuse must be seen in the broader context of supporting children and families and providing access to vital prevention and early intervention services. It is important to acknowledge that family support and other services, such as short breaks can form a significant part of a child protection plan and be a protective and preventative intervention.³² This is compromised if services or placements are not available, seen at times in the use of out of jurisdiction care for children with disabilities.

The area of communicating with and providing information to children is noted in work examining CSE which points to the importance of ensuring children with learning disabilities have access to information about the dynamics of abuse (which recognises particular vulnerability to online abuse); are supported in building resilience as a preventative measure; have accessible ways to seek help and are involved in plans to support and protect them.³³ In supporting children with disabilities to recover from abuse, access to tailored therapeutic services, including in their transition to adult services, must be ensured.³⁴

While safeguarding is often identified as the role of social care agencies, it is important to acknowledge the significant responsibilities of other professionals, including for example, health, education, policing and justice bodies.³⁵

Recommendations

The Health and Social Care Board should fully implement the Independent Inquiry into CSE recommendation on ensuring child protection concerns are addressed in children with disabilities and ‘looked after’ processes. Further to this, working arrangements across children with disability and child protection or family intervention teams should be reviewed to identify and implement best practice.

³¹ Kelly and Dowling 2015

³² Kelly and Dowling 2015

³³ Franklin *et al* 2015, Marshall 2014

³⁴ Franklin *et al* 2015

³⁵ NCB 2014, NSPCC 2013

All agencies, including health and social care, education and justice, should ensure that children with disabilities have access to appropriate safeguarding information and support. This must include access to effective Relationships and Sexuality Education.

2.6 Article 24: Education

The UN Committee on the Rights of the Child has stated that children and young people with disabilities should have their right to education ensured in order to promote, *"the development of the child's personality, talents and mental and physical abilities to their fullest potential."*³⁶ However there are a range of barriers preventing this from becoming a reality for children and young people in NI.

Special Educational Needs (SEN)

Figures for 2015/2016 show that 22% (74,750 children) of the school population are on the Special Educational Needs (SEN) register.³⁷ This represents an increase of over 20,000 since 2005/6.³⁸ Statements of SEN (which describes the specific needs of the child and the nature of support to which they are legally entitled) are held by 16,500, i.e. 4.9% of pupils of the school population.³⁹ Significant investment is required to implement the right to an effective education for children with SEN and disabilities.

The vast majority of children with SEN attend mainstream schools. However schools are not always sufficiently equipped or prepared to meet their particular requirements and concerns have been raised around planning, and the availability of resources and support.⁴⁰

There have historically been problems with the co-operation of Government Departments in meeting the needs of children and young people with SEN. The Children's Services Co-operation Act (NI) 2015 places a statutory duty to co-operate on Government Departments

³⁶ CRC 2006, para.62

³⁷ Department of Education (2016), Statistical Bulletin 9/2016 Annual enrolments at grant-aided schools in NI 2016/17: Basic provisional statistics 8th December 2016.

³⁸ NI Assembly Official Report, 10/03/15

³⁹ Department of Education (2016), Statistical Bulletin 9/2016 Annual enrolments at grant-aided schools in NI 2016/17: Basic provisional statistics 8th December 2016.

⁴⁰ CDSA 2012

in the provision of children's services. Unfortunately as part of this duty, there is only an 'enabling power' to share resources in the provision of children's services, rather than an obligation. There is a similar obligation on health and education authorities to co-operate with regard to children with SEN under Article 4 of the Special Educational Needs and Disability (NI) Act 2016 (SEND Act).

Section 9(2) of the SEND Act provides for Regulations to make provision about assistance and support to enable a child over compulsory school age to exercise any such right. Draft Regulation 26(3) however, doesn't make provision to fund such support or advocacy.⁴¹

From September 2016 six special schools which had offered full-time nursery placements had their hours reduced to 2.5 hour placements per day. In making these cuts, the Education Authority relied on a piece of research⁴² which found no discernible difference in the cognitive benefits of full time nursery provision as opposed to part time nursery provision. However, this study did not consider children with additional or special needs. International evidence⁴³ states that children with additional needs require a longer day of nursery provision. The Education Authority is now carrying out a Strategic Review of Nursery provision in Special Schools and a review of Support for Children with SEN in Mainstream Schools. Concern remains that these reviews are resource driven and will lead to further cuts in SEN provision.

Concerns have been identified regarding Statements of SEN. These relate to delays in the assessment of children's needs, inadequate numbers of educational psychologists and a systematic failure to specify and quantify the nature of support to be provided.⁴⁴ Cases dealt with through NICCY's legal advice line have highlighted a number of additional issues including the imposition of set allocations of educational psychology time to schools, meaning that only those children viewed as most in need are getting educational psychology referrals. Many children not considered as most in need are waiting unacceptably long periods of time for referrals. Statements of SEN have also become vague and therefore unenforceable. NICCY also has concerns about the standardisation of groups of children where provision is being allocated based on their 'category of need', as opposed to their individual needs. NICCY is also extremely concerned about the ability

⁴¹ See NICCY (2016)a.

⁴² Melhuish *et al* 2006

⁴³ HighScope 2005

⁴⁴ CDSA 2012, CDSA 2014

of the Education Authority to effectively and efficiently plan and provide SEN services due to the lack of data it holds on children's needs and projected numbers in relation to SEN.

Educational Outcomes

Data concerning educational outcomes for young people with disabilities in NI is limited. Only 8.4% of those with a disability hold a degree or equivalent qualification compared with 23.7% of non-disabled persons. 32% of working age disabled people do not hold any qualifications, compared to 13.4% of working age non-disabled people.⁴⁵

Statistics show that children with special educational needs (SEN) do not achieve as well in education as children with no SEN. Only 18.9% of children with a statement of SEN achieved 5 A*- C GCSEs, including English and Mathematics. 38.3% of children with SEN who did not have a statement achieved 5 A*- C GCSEs, including English and Mathematics.⁴⁶

Transitions beyond School

Improvements to the transition process for young people in NI are urgently required.⁴⁷ Evidence indicates that the availability and adequacy of transitions planning, support and post-school options varies across NI. Young people may not always be consulted during the transition process, also there is a lack of information available to some young people and their parents regarding the options and processes. A study indicates that 56.3% of respondents reported never having been offered any advice regarding future plans following school.⁴⁸

Upon leaving school, young people with disabilities can enrol on courses in further education colleges. Their experiences tend to be mixed, with some describing the provision and support they received in positive terms while others reported feeling unsupported and overwhelmed.⁴⁹ Other concerns highlighted include a limited choice of course options for disabled young people, the potential for young people to repeat or spend prolonged periods on courses, and the absence of a clear progression path.⁵⁰

⁴⁵ Gray *et al* 2015

⁴⁶ DE 2016

⁴⁷ CDSA 2012, CYPSP 2011, NIA 2014a, NIA 2014b

⁴⁸ OFMDFM 2013, p.29

⁴⁹ Kelly 2012

⁵⁰ Lundy *et al* 2012, Kelly 2012

Informal Exclusions

Children with disabilities are routinely “informally” excluded from school in NI. There are no formal appeal rights to challenge informal exclusion from school as the practice is unlawful. Currently in NI, informal exclusions are not being properly documented, resulting in such exclusions being a hidden problem with no data collection hampering knowledge about the scale of the problem. This problem is exacerbated further by a failure to commence an appeal mechanism against formal suspension.⁵¹

Recommendations

The NI Executive should introduce a system to collect data on educational outcomes for young people with disabilities and ensure that all steps are taken to reduce the inequalities for children with SEN and disabilities.

The finalisation and implementation of the SEN Framework in NI should be progressed without delay. The delivery of education to children with SEN should be entirely focused on effectively and comprehensively meeting their needs and upholding their best interests. Any changes to the delivery of education for children with SEN should only be concerned with better supporting children and young people with SEN in order to achieve better outcomes and should never be resource driven.

Government departments and agencies should ensure that they are co-operating with each other effectively in line with their statutory obligations to improve outcomes for children and young people, particularly in providing for the needs of children with SEN.

The practice of ‘informal’ exclusions from school should be immediately halted. This particularly affects extremely vulnerable children including those with disabilities and SEN. Additional and adequate support for these children should be provided.

Children with SEN should have access to a prompt and effective referral service. Needs and support services required should be clearly specified and quantified.

⁵¹ Art. 33, Education & Libraries (NI) Order 2006

Comprehensive provision which meets the needs of children with SEN and disabilities should be put in place without delay.

A comprehensive training programme should be put in place for Teachers and support Staff on the SEND legislation and duties.

DE should extend the right of appeal to SENDIST to children and young people of all ages capable of forming their own views and adequate support, including the provision of advocacy, should be put in place to allow the exercise of this right where they require support to do so. .

Young people with disabilities should have access to appropriate careers advice through the careers service. Low expectation and/or negative attitudes and perceptions should not thwart young people's ambitions.⁵²

There is an urgent need to develop and/or improve day care opportunities across NI and to monitor outcomes for young adults who are severely or profoundly disabled.

2.7 Article 25: Health

Children and young people with a disability are at a greater risk of experiencing poor health outcomes and access to health services. This risk increases when a disability is accompanied by other factors whichacerbate health inequalities including children deprived of parental care⁵³, children living in poverty⁵⁴, those exposed to parental mental ill health and children in contact with the criminal justice system.⁵⁵

Children and young people who have one or more co-occurring health conditions are also at much greater risk of experiencing health inequalities, major health problems and shorter life expectancy.⁵⁶ It has been estimated that 20 % of children and young people with a physical, learning or sensory disability will experience mental health problems by their 18th birthday and are more likely to experience anxiety, depression, self harm and suicidal

⁵² OFMDFM 2009, p.69

⁵³ Kelly *et al* 2016

⁵⁴ CDSA 2012

⁵⁵ CJNI 2010

⁵⁶ Rethink 2013

thoughts than other young people.⁵⁷ Research with looked after children has indicated that those with a physical or intellectual disability had lower levels of access to specialist mental health / therapeutic services compared to those who did not have co-existing impairments.⁵⁸

Significant delays in being diagnosed with a disability and/ or mental health problem mean that access to essential support services and specialist advice is often crisis driven rather than offered as a form of early intervention. Chronic lack of funding in specialist mental health and disability services is widely understood as contributing to the unacceptably long waiting times for assessment and lack of access to services. Although there have been important developments in specialist community based services by some Trusts, these services generally continue to be under-developed resulting in inappropriate admissions to hospital and delayed discharges⁵⁹.

Furthermore, an over-reliance on 'silo working' and one service meeting the heterogeneous needs of children with disabilities creates significant barriers to access to specialist services, such as therapeutic services or mental health care.⁶⁰ This lack of co-ordination extends to the provision of the support for transition from child to adult services which has been described as often neither sufficient, timely nor well co-ordinated, and does not ensure fully-informed decision by children with disabilities.⁶¹

These systematic issues create significant stress for young people and their carers. Carers of children with a disability are twice as likely to suffer psychological distress compared to other carers. Parents and carers have expressed concerns regarding a lack of available services, delays in getting access to services, the need to visit multiple sites for appointments and/or not understanding why they have been referred to services.

More generally, many children with disabilities do not see their views as being given due weight when making personal decisions in their lives which includes health decision making. Having a valued role in the decisions made about their future and support required is important to young people, and a lack of autonomy has been linked to poorer

⁵⁷ CYPSP 2011

⁵⁸ Kelly *et al* 2016

⁵⁹ Rees *et al* 2014

⁶⁰ Kelly *et al* 2016

⁶¹ CRC 2016, para. 55 (a) and (c)

mental and emotional well being.⁶²

Recommendations

All children with a disability should have access to a full range of person centred and age appropriate disability and mental health services i.e. prevention, early intervention, community based, specialist or intensive intervention. Regional criteria for children with disabilities accessing services must be equitable.

Children and young people with disabilities should have clear pathways for support, especially where their needs require cross-disciplinary and multi-agency support, and this should extend to transition planning for those moving from child to adult services.

Information/data systems should be developed which will identify and monitor the specific ‘health needs’ of children with a disability so that resources can be directed appropriately.

Advocacy services should be developed for children with disabilities across the region to ensure their rights to independent representation and support are upheld.

The NI Executive should fully consider the social, emotional and financial support needs of families who have children with a disability, including the needs of siblings.

The NI Executive should ensure full respect for the rights of children with disabilities to express their views and to have their views given due weight in all decision-making that affect them including on access to and choice of personal support and health treatments.

2.8 Article 27: Work and Employment

Research and policy reports suggest that opportunities for young people with learning disabilities to achieve fulfilling employment in NI are scarce, although many young people are keen to pursue employment opportunities. The absence of any statutory support for

⁶² CYPSP 2011

young people following further education courses can make the transition to employment challenging, resulting in them remaining in further education or moving to day care services.⁶³

While the benefits of Government based employment schemes are recognised, significant numbers of participants do not then progress to paid employment. An evaluation of one scheme in NI revealed that only 9% moved to unsupported employment.⁶⁴ Indeed, statistics reveal persistently low levels of employment amongst people with disabilities; one study indicated that 62% of disabled 16-25 year olds were economically inactive.⁶⁵

Recommendations

Disabled young people should be given opportunities to complete appropriate work placements while still in school.

The NI Executive should monitor the employment outcomes for young people with disabilities engaged in work placements or training and seek to support and share examples of good practice by/with employers.

The NI Executive should introduce incentives to ensure employment opportunities are made available to people with disabilities and support provided to help adapt working practices and workplace ‘culture’ where required, to accommodate young people with disabilities.

2.9 Article 28 - Adequate standard of living and social protection

Households where there is a disabled person are more likely to be experiencing financial difficulties than other households. More than a third (36%) of children living in a household where at least one adult or child has a disability will be living in poverty.⁶⁶ The equivalent figure is one in four children (25% poverty rate) where there are no family members with a disability. Perhaps surprisingly, the equivalent poverty rates for working age adults are lower in these circumstances, with 25% of adults living in a household with a disabled

⁶³ Schubotz and Devine 2013; NICCY 2015.

⁶⁴ KPMG 2010

⁶⁵ OFMDFM 2009

⁶⁶ Department for Communities, Family Resources Survey 2014-15. We are using the Relative Poverty (After Housing Costs) measure.

family member experiencing poverty, compared to 20% of adults where there are no disabled family members.⁶⁷

It is important, therefore when considering the response of the UK State party to the Committee's Inquiry concerning the United Kingdom of Great Britain and Northern Ireland, carried out by the Committee under article 6 of the Optional Protocol to the Convention, that the impact of State failures to deliver on Article 28 in relation to an adequate standard of living has a particularly detrimental impact on children and young people.

2.10 Article 31: Statistics and Data collection

The NI Shadow Report to the UN Committee states:

*"The absence of statistics and data in NI on the experiences of people with disability in society negatively affects the formulation, implementation, monitoring and evaluation of policies and programmes to give effect to the Convention and some examples have been referenced throughout this report. Those statistics which are available rarely provide the range and disaggregation of information required to monitor the Convention and/or are not generally accessible to disabled people and their representatives."*⁶⁸

The Children (NI) Order 1995 requires the establishment of a register of children and young people with disabilities in NI - this is yet to be realised.⁶⁹

In its 2016 concluding observations, the Committee on the Rights of the Child recommended that *'the government of Northern Ireland expedite the finalization of a child Rights Indicator framework, covering all areas of the Convention.'*⁷⁰ To date, such a system has not been established. General Comment No.9 on the rights of children with disabilities notes that State parties should, *"set up and develop data gathering mechanisms which are accurate, standardised and allow disaggregation and reflect the actual situation of children with disabilities"*.⁷¹

Recommendations

⁶⁷ Ibid.

⁶⁸ Harper *et al* 2012

⁶⁹ CDSA 2012

⁷⁰ CRC 2016, para.13

⁷¹ CRC 2006, para.18-19

The NI Executive should systematically compile comprehensive quantitative and qualitative data on children and young people with disabilities. This should be sufficiently disaggregated to allow for effective monitoring and assessment and to take account of the potential impact of different variables.

The NI Executive should establish a disabled children register as required under Schedule 2 of the Children (NI) Order 1995 without further delay.

3.0 Concluding Remarks

NICCY is submitting this Report with the intention and hope that it will contribute to the Committee's knowledge and understanding of the particular circumstances and challenges facing children and young people with disabilities in NI. As the Report outlines, there remain many areas where improvements should be made in ensuring that children and young people with disabilities in NI have their rights realised.

4.0 References

Assembly Question 50731/11-16, Asked by Mr Máirtín Ó Muilleoir 11/11/2015, Answered on 23/11/2015

Beckett, H. (2014). Sexual Exploitation and Sexual Violence in Adolescence, in Schubotz, D. and Devine, P. (ed) *Not So Different: Teenage Attitudes Across a Decade of Change in NI*. Dorset: Russell House Publishing.

Byrne, B. and Lundy, L. (2011). *Barriers to the Effective Government Delivery for Children in NI*. Belfast: NICCY.

Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014). *Shortfalls in public policy and programme delivery in NI relative to the Articles of the UNCRPD – Final Report* 2 May 2014, p.157. Belfast: ECNI.

Children with Disabilities Strategic Alliance (CDSA) (2012). *Manifesto (Review and Update 2012)*. Belfast: CDSA.

Children with Disabilities Strategic Alliance (CDSA) (2014). *The State of SEN Statements: The case for specification and quantification*. Belfast: CiNI.

Children and Young People Strategic Partnership (CYPSP) (2011) NI *Children and Young People's Plan 2011-2014 Regional Sub Group on Children and Young People with Disabilities* <http://www.cypsp.org/regional-subgroups/children-and-young-people-with-disabilities/>

Criminal Justice Inspection NI (CJINI) (2010). *Not a marginalised Issue- Mental Health and the Criminal Justice System in NI*. Belfast: CJI.

Department of Education (2007). *Report of the Transitions Interdepartmental Working Group*. Bangor: DE.

Department of Education (2016). *Statistical Bulletin 5/2016 Qualifications and Destinations of NI School Leavers 2014/15*, 26 May 2016. Bangor: DE.

Department of Education (2016). *Statistical Bulletin 9/2016 Annual enrolments at grant-*

aided schools in NI 2016/17: Basic provisional statistics 8th December 2016. Bangor: DE.

DHSSPS (2005). *Equal Lives - Review of Policy and Services for People with a Learning Disability in NI* (Report of the Bamford Review).

<http://www.dhsspsni.gov.uk/equallivesreport.pdf>

DHSSPS (2007). 'A Comprehensive Legislative Framework: Executive Summary – Bamford Review' <http://www.dhsspsni.gov.uk/legal-issues-executive-summary.pdf>

DHSSPS (2009). *Delivering the Bamford Action Plan 2009-11*.

www.dhsspsni.gov.uk/bamford_action_plan_2009-2011.pdf

DHSSPS (2010). *Physical and Sensory Disability Strategy 2011 – 2015 Consultation December 2010*. Belfast: DHSSPS.

Disability Action (2011). *Fuel Poverty and Disability*. Briefing Paper.

<http://www.disabilityaction.org/fs/doc/publications/fuel-poverty-and-disability-briefing-paper.doc>.

Ferry, F., Bolton, D., Bunting, B., O'Neill, S. and Murphy, S. (2010). 'The experience and psychological impact of 'Troubles' related trauma in NI: a review'. *Irish Journal of Psychology*, 31. pp. 95-110.

Franklin, A., Raws, P. and Smeaton, E. (2015). *Underprotected overprotected: meeting the needs of young people with learning disabilities who experience, or are at risk of, sexual exploitation*. Ilford: Barnardo's, Bild, Coventry University, Paradigm Research and The Children's Society.

Gray, C. and Horgan, G. (2010). 'Social Care in NI'. *ARK Policy Brief*.

Belfast: University of Ulster, The Queen's University Belfast and The Economic and Social Research Council.

Gray, A. M., Horgan, G., Leighton, A. and ARK (2015). *Labour Force Survey, Quarterly Supplement January-March 2014 as referenced in Figuring it Out, Looking Behind the Social Statistics in NI November 2015*. Belfast: DETI.

Green, R. (2007). *Evaluation of Young Voices Project*, July 2004-March 2007, p.9. Belfast: Include Youth.

Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012). *'Disability Programmes and Policies: How Does NI Measure Up?'*, pp. 252-260. Belfast: Equality Commission for Northern Ireland.

HighScope (2005). *The HighScope Perry Preschool Study Through Age 40*. Ypsilanti, USA: HighScope.

Irvine, M., McCusker, C., Coulter, J., Corbett, H., O'Loan, N. and Dempster, M. (2011). *Advancing Psychological Therapies in NI*. Belfast: Belfast Health and Social Care Trust, Queen's University, Belfast and the Public Health Agency.

Jamison, J. (2012). *The Impact of Transition on Family Life, Executive Summary*. Belfast: Post 19 Lobby Group.

Jones, L., Bellis, M., Wood, S., Hughes, K., McCoy, E., Eckley, L., Bates, G., Mikton, C., Shakespeare, T. and Officer, A. (2012). Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies. *The Lancet*. vol. 380, no. 9845, Sept. pp. 899-907.

JRF (2014). *Monitoring poverty and social exclusion in NI 2014*. JRF.
<http://www.jrf.org.uk/publications/monitoring-poverty-and-social-exclusion-northern-ireland-2014>

Kelly, B. (2012). *'Don't Box Me In': Disability, Identity and Transitions to Young Adult Life*. Belfast: Barnardos (NI) and The Queen's University, Belfast.

Kelly, B. and Dowling, S. (2013). What Does the Profile of Looked after Disabled Children and Young People Tell Us? Emerging Findings from the *Presentation from SBNI and QUB Seminar Safeguarding Children and Young People*, 15 November 2013.

Kelly, B. and Dowling, S. (2015) *Safeguarding Disabled Children and Young People: A Scoping Exercise of Statutory Child Protection Services in NI*. Belfast: QUB, Disability Research Network and SBNI.

Kelly, B. Dowling, S. & Winter, K. (2016) *Disabled Children and Young People in Out of Home care*. Belfast: QUB/OFMDFM.

KPMG (2010). *An Evaluation of the Workable Programme (NI) Programme*. Belfast: Department for Employment and Learning.

Lundy, L., Byrne, B. and McKeown, P. (2012). *Review of Transitions to Adult Services for Young People with Learning Disabilities*.

<http://www.niccy.org/Publications/policyandresearchreportsandpapers/publications-from-2012/reviewoftransitionsforyoungpeoplewithlearningdisabilities>

Marshall, K (2014) *Child Sexual Exploitation in NI: Report of the Independent Inquiry*. Belfast: RQIA, CJI and ETI.

McShane, K. (2013). Children with a Disability in the NI Child Protection System: What Do We Know And Where Do We Go From Here? *Presentation from SBNI and QUB Seminar Safeguarding Children and Young People*, 15 November 2013.

Melhuish, E., Quinn, L., Hanna, K., Sylva, K., Sammons, P., Siraj-Blatchford, I. and Taggart, B. (2006). *Effective Pre-school Provision in NI*. Belfast: DE and DHSSPS.

Monteith, M., Casement, E., Lloyd, K. and McKee, P. (2009). *Taking a Closer Look Child Poverty and Disability*. Belfast: Save the Children/Family Fund.

<http://www.familyfund.org.uk/sites/default/files/Child%20poverty%20in%20Northern%20Ireland.pdf>

National Preventative Mechanism (2015), *An Announced Inspection of Woodlands Juvenile Justice Centre*, Belfast: CJI. www.cjini.org/CJNI/files/fb/fb2b3c05-0ec8-47cc-9d63-35443b8e1d97.pdf

NCB (2014). *An Exploration of E-Safety Messages to Young People, Parents and Practitioners in NI*, Safeguarding Board for NI, available from <http://www.safeguardingni.org/sites/default/files/sites/default/files/imce/e-safety%20report.pdf> (last accessed 27.06.14).

NI Assembly (2014a). <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Reports-13-14/02-June-2014/#6>

NI Assembly (2014b). <http://www.niassembly.gov.uk/Assembly-Business/Committees/Employment-and-Learning/Inquiries/Inquiry-into-post-Special-Educational-Need-Provision-in-education-employment-and-training-for-those-with-Learning-Disabilities/>

NI Assembly (2015) *Official Report*, 10 March 2015.

NICCY (2008). *Who Speaks for Us?* Belfast: NICCY. <http://www.niccy.org/uploadeddocs/Advocacy%20Report%20child%20friendly%20version%20-%20May%2008.pdf>

NICCY (2010). *Children with Disabilities*. Policy Briefing. 'Make it Right' Campaign. Belfast: NICCY. http://www.niccy.org/uploaded_docs/2010/Make%20it%20Right/July/NI-CY%20UN%20Policy%207%20PRINT.pdf

NICCY (2013). *Right of Appeal to the Special Educational Needs and Disability Tribunal*. Advice to the Department of Education (NI). Belfast: NICCY.

NICCY (2015). *Written evidence to the Committee for Employment and Learning*, <http://www.niccy.org/publications/2015/june/03/briefing-to-employment-learning-committee/>, Belfast: NICCY.

NICCY (2016)a. *Advice to the Department of Education on its Consultation on Draft Special Educational Needs (SEN) Regulations*, Belfast: NICCY. <http://www.niccy.org/publications/2016/may/19/deni-special-education-needs-regulations/>

NSPCC (NI) (2013). *Response to the NI Anti Bullying Forum - Review of current anti-bullying legislation, guidance, policy and practice in NI*, NSPCC, available from http://www.nspcc.org.uk/Inform/policyandpublicaffairs/northernireland/consultations/2013-bullying_wdf100486.pdf (last accessed 25.06.14).

Office of the First and Deputy First Minister (OFMDFM) (2006). *Our Children and Young People: Our Pledge. A Ten Year Strategy for Children and Young People in Northern*

Ireland 2006-2016. <http://www.ofmdfmni.gov.uk/ten-year-strategy.pdf>

OFMDFM (2009). *Report of the Promoting Social Inclusion Working Group on Disability.*

http://www.ofmdfmni.gov.uk/report_of_the_promoting_social_inclusion_working_group_on_disability_pdf_1.38mb_.pdf

OFMDFM (2013). A Strategy to improve the lives of people with disabilities 2012 – 2015, Belfast.

O'Neill, S., Armour, C., Bolton, D., Bunting, B., Corry, C., Devine, B., Ennis, E., Ferry, F., McKenna, A., McLafferty, M. and Murphy, S. (2015). *Towards a Better Future Report: The Transgenerational Impact of the Troubles on Mental Health*. Belfast: CVS and University of Ulster Belfast.

Patient Client Council (2011). *Young Carers in NI*. Belfast: PCC.

http://www.patientclientcouncil.hscni.net/uploads/research/Young_carers_in_Northern_Ireland.pdf

Rees, D., York, A., and McDougall, T. (2014) *A Review of Beechcroft and Child and Adolescent Acute Care Pathways*, available from <http://www.hscboard.hscni.net/our-work/social-care-and-children/mental-health/>

Research and Information Service, NI Assembly (2014). *Post-secondary School Provision for People with Special Educational Needs in NI*. Briefing Paper. Belfast: NIA.

Rethink (2013) *Lethal Discrimination* available from www.rethink.org

Royal College of Speech and Language Therapists (2011). *Response to the Review of the youth justice system in NI*, December 2011. (Belfast: Royal College of Speech and Language Therapists)

Safeguarding Board for NI (2013). Business Plan September 2013-March 2015, *Safeguarding Board for NI*, available from <http://www.safeguardingni.org/sbni-business-plans-and-annual-reports>

Schubotz, D. and Devine, P. (eds.) (2013). *Not So Different. Teenage Attitudes across a decade of change in NI*. Dorset: Russell House Publishing.

Stalker, K. (2013) Researching the Abuse of Disabled Children: Messages from the Literature Review, *Presentation from SBNI and QUB Seminar Safeguarding Children and Young People*, 15 November 2013.

UK Children's Commissioners (2008). *UK Children's Commissioners' Report to the UN Committee on the Rights of the Child*.

UK Children's Commissioners (2011). *The Story so far – UK Children's Commissioner's Mid-term Report to the UK State Party on the Convention of the Child 2011*.

UN Committee on the Rights of the Child (2002). *Consideration of Report and Concluding Observations GB and NI*.

UN Committee on the Rights of the Child (2003). *General Comment No. 5 (2003) General Measures of implementation of the CRC*, CRC/GC/2003/5.

UN Committee on the Rights of the Child (2006). *General Comment No.9. The Rights of Children with Disabilities*. <http://tb.ohchr.org/default.aspx?Symbol=CRC/C/GC/9>

UN Committee on the Rights of the Child (2008). *UK Concluding Observations* <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

UN Committee on the Rights of the Child (2016). *UK Concluding Observations* http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En